

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Norfolk

UNITED STATES OF AMERICA,

vs.

CASE NO.: 2:17-CR-00126

DARYL BANK and BILLY SEABOLT, et al

Defendants,

JOINT NOTICE OF EXPERT WITNESSES
PURSUANT TO THE PREVIOUSLY
ENTERED DISCOVERY ORDER

COME NOW the, Defendants, DARYL BANK and BILLY SEABOLT, by and through Undersigned Counsel, and discloses to the government a written summary of testimony, the Defendants intends to use under Rule 702, 703, and 705 of the Federal Rules of Criminal Procedures.

1. Peter Lewis - SEC deposition of April 7, 2016 and his Expert Report, dated July 6, 2016.

2. Jack "Trip" Forrest - SEC deposition of June 26, 2014 and Expert Report dated July 8, 2016.

3. Peter Moncure - SEC deposition of March 30, 2016.

4. Nicole J. Harrell, Esquire - Ms. Harrell is an expert in franchises and the Virginia Statutory scheme relating to franchise requirements, disclosure documents, required filings, matters of public records all relating to obtaining a franchise in Virginia pursuant to Virginia law. Her CV is attached.

5 Wayne Bostain - Mr. Bostain is a Certified Public Accountant and is an expert witness in forensic accounting. Mr. Bostain will provide alternative explanation of the

governments financial source charts and reports. His CV is attached..

Respectfully submitted,

DARYL G. BANK

_____/s/

James O. Broccoletti, Esquire

VS# 17869

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Respectfully submitted,

BILLY SEABOLT

_____/s/

Emily Munn, Esquire

VS# 46390

EMILY MUNN, PC

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CERTIFICATE OF SERVICE

I hereby certify that on the 16 day of March, 2021, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

Melissa E. O'Boyle, Esquire
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Nicole J. Harrell, CIPP/US
Member

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Nicole is a member in the firm's Norfolk office and Chair of the Data Privacy and Security Practice Group. Nicole regularly assists clients with cyber preparedness and breach response. Her data privacy and security practice includes preparation of incident response plans and counseling clients on preparing for a cyber incident. Nicole helps clients understand their risks and plan accordingly. Once a cyber incident occurs, Nicole coordinates forensic analysis, media announcements, response plans and notifications. In addition, she works with clients on cyber insurance coverage and claims. Nicole regularly reviews and negotiates third-party vendor contracts for data security and privacy concerns.

Nicole also represents franchisors in regulatory matters, including preparation of franchise disclosure documents, franchise agreements and related ancillary documents, registration and compliance. In addition, she represents franchisees in review of franchise disclosure documents, negotiation of franchise agreements and termination of franchise agreements and relationships.

Nicole's intellectual property practice includes federal and state trademark registration, copyright registration and assignment, negotiation of software development and licensing agreements, and licensing of intellectual property. Her commercial practice includes entity formation, corporate law, mergers and acquisitions and general contract negotiation. She also has experience in negotiating supply and distribution agreements.

PRACTICE AREAS

- Franchising
- Data Privacy and Security
- Intellectual Property & Franchising
- Alcoholic Beverage Team
- Mergers, Acquisitions & Strategic Alliances
- Commercial

REPRESENTATIVE MATTERS

- Advised various clients with respect to entity formation and corporate law matters
- Advises a leading business outsourcing organization providing document management, critical customer communications, business form manufacturing, promotional products programs and logistics services on customer and vendor contracts, intellectual property matters, and various acquisitions and divestitures
- Represented software developer in several venture arrangements involving software development and licensing, structure and ownership of the joint venture, and loans to the joint venture
- Represented franchisors in multi-state registration of franchise disclosure documents and compliance with federal and state registration and disclosure laws
- Represented franchisees in acquisition of multiple franchise units and negotiation with franchisors involving franchise agreements, the franchise relationship, and franchise termination

REPRESENTATIVE MATTERS (CONT.)

- Represented publicly-traded company on divestitures of various business segments
- Represented national clients with all alcoholic beverage licensing matters in Virginia

RECOGNITION AND HONORS

- **Leaders in the Law**, *Virginia Lawyers Weekly*, 2020
- Women in Business Honoree, *Inside Business*, 2017
- Virginia's Legal Elite; *Virginia Business Magazine*, 2011-2020
- Top Lawyers; *CoVaBIZ*, 2017-2020
- Virginia Rising Stars; *Law & Politics*, 2008-2014
- **Certified Franchise Executive**, International Franchise Association
- Walter E. Hoffman Award for Community Service, 2009
- Spirit of Innovation Award for Leadership Excellence
- *University of Baltimore Law Review*; Associate Editor

ASSOCIATIONS

- National Association of Licensing and Compliance Professionals, Associate Member
- Virginia Craft Brewers Guild, Associate Member
- Virginia Bar Association
- Virginia State Bar
- American Bar Association; Forum on Franchising
- Virginia Bar Association Community Service Program Council; Chair, 2008–2009
- Virginia Bar Association Firms in Service Hampton Roads
- Virginia Bar Association Pro Bono Council
- International Franchise Association
- International Franchise Association Legal Symposium Task Force, 2006, 2010-2011
- Make-A-Wish Foundation of Eastern Virginia; President, 2006–2007
- ForKids, Inc.

EDUCATION

- Hollins University; B.A., 1996
- University of Baltimore Merrick School of Business; M.B.A., *magna cum laude*, 2001
- University of Baltimore School of Law; J.D., 2001

PRESS AND PUBLICATION

- 53 Kaufman & Canoles Attorneys Named *Virginia Business Magazine's* "Legal Elite" 2020
- 45 Kaufman & Canoles Attorneys Named as Top Lawyers 2020 in *CoVaBIZ Magazine*
- 48 Kaufman & Canoles Attorneys Named *Virginia Business Magazine's* Legal Elite 2019
- 48 Kaufman & Canoles Attorneys Named *Virginia Business Magazine's* Legal Elite 2018
- 40 Kaufman & Canoles Attorneys Named as Top Lawyers 2019 in *CoVaBIZ Magazine*
- Manufacturing & Distribution Client Advisory - Amazon Brand Registry
- 31 Kaufman & Canoles Attorneys Named as Top Lawyers 2017/18 in *CoVaBIZ Magazine*
- 48 Kaufman & Canoles Attorneys Named to Virginia Business Magazine's Legal Elite 2017
- Nicole J. Harrell Qualified as Certified Information Privacy Professional
- Nicole J. Harrell Named Chair of the Commercial Section
- 48 Kaufman & Canoles Attorneys Named to Virginia Business Magazine's Legal Elite 2016
- Manufacturing & Distribution Client Advisory - September 2016
- Cybersecurity Client Alert - June 2016
- Cybersecurity Client Alert - May 2016
- Cybersecurity Client Alert - March 2016
- Cybersecurity Client Alert - February 2016
- Humans are Weakest Link in Cybersecurity Defense
- Cybersecurity Alert - Ransomware and Cyber Extortion
- 44 Kaufman & Canoles Attorneys Named to Virginia Business Magazine's Legal Elite 2015
- Cybersecurity Client Alert - October 2015

PRESS AND PUBLICATION (CONT.)

- Cybersecurity Client Alert - September 2015
- Cybersecurity Client Alert - August 2015
- Cybersecurity Newsletter - July 2015
- Cybersecurity Client Alert - June 2015
- 45 Kaufman & Canoles Attorneys Named to Virginia Business Magazine's Legal Elite 2014
- The Business of Beer
- Don't Pour Your Profits Down Your Competitor's Drain
- Restaurant Client Alert - Summer 2014
- 29 K&C Attorneys Named as Super Lawyers 2014 and 8 Named as Rising Stars 2014
- 54 Kaufman & Canoles Attorneys Named to Virginia Business Magazine's Legal Elite 2013
- 29 K&C Attorneys Named as Super Lawyers 2013 and 14 Named as Rising Stars 2013
- 55 Kaufman & Canoles Attorneys Named to Virginia Business Magazine's Legal Elite 2012
- Software Licensing: Legal Issues with Business Consequences
- 40 K&C Attorneys Named as Super Lawyers 2012 and 14 Named as Rising Stars 2012
- A Guide to New Business Opportunity Rule
- 53 Kaufman & Canoles Attorneys Named Virginia Business Magazine's Legal Elite 2011
- 36 K&C Attorneys Named as Super Lawyers 2011 and 14 Named as Rising Stars 2011
- 31 K&C Attorneys Named as Super Lawyers & 11 Named as Rising Stars 2010
- 30 Attorneys Named Super Lawyers, 12 Named Rising Stars 2009
- Kaufman & Canoles Announces New Partners
- 28 Kaufman & Canoles Attorneys Named as Super Lawyers & 8 Named as Virginia Rising Stars 2008
- VetFran - Franchisors Give Break to Veterans
- Investigating Franchising Your Business
- First Criminal Case Conviction Under HIPAA
- Virginia Chapter of the *American Bar Association's Franchise Desk Book*, Second Edition; Co-editor
- *University of Baltimore Law Review*, Volume 30.1; Hospital Mergers Versus Consumers: An Antitrust Analysis

Summary of Qualifications

E. Wayne Bostain, CPA
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757-486-6767
757-486-6931 fax
Email: cpa@bostaincpa.com
Website: www.bostaincpa.com

Education:

University of Virginia 1968-70, College of Arts & Science
Saint Leo College, 1977, BA, Business Administration, Accounting
Golden Gate University, 1980, MBA, Management

Licenses:

Certified Public Accountant (Virginia)
Enrolled Agent (Licensed by the Department of the Treasury)

Certifications:

Certified Public Accountant (Virginia)
Certified in Financial Forensics (AICPA)
Certified Fraud Examiner (ACFE)
IRS Enrolled Agent (Internal Revenue Service)
Virginia Law Reader Program (Commonwealth of Virginia, Completed 2007)

Qualifications:

Qualified as an expert witness in forensic accounting, tax and related accounting matters in the following jurisdictions:

U.S. District Court, Norfolk, Virginia
U.S. Bankruptcy Court, Norfolk, Virginia
U.S. Bankruptcy Court, Newport News, Virginia
American Arbitration Association

Circuit Court in the following Commonwealth of Virginia Cities:

Virginia Beach
Chesapeake
Norfolk
Suffolk
Hampton

Summary of Qualifications

Cases as Consulting Expert:

Dr. Robert Philip Korman, forensic examination, 2007
Phil Caruana, forensic examination, 2008
First Christian Church, forensic examination, 2008
Atlantic Dental Group, forensic examination, 2010
Oral & Maxillofacial Surgery of Tidewater, forensic examination, 2010
D&M Concrete Construction, Inc., Case Number PORF1101257, forensic examination 2011
JMA Contracting, Inc., forensic examination, 2013
Door & Glass Services, Inc. forensic examination 2014
Feugo's Café, forensic examination, 2014
Italian Kitchen, Inc. t/a Lucky Oyster Restaurant, forensic examination, 2016
Specialist For Women, Inc., forensic examination, 2016
Southern Commercial Development, LLC, forensic examination, 2017
Southern Grading, Inc., forensic examination, 2017
Big Boy Toys, Inc., forensic examination, 2017
Ronald Keith Brown Estate, forensic examination, business valuation, 2015
Monds v. Monds, Circuit Court for the City of Virginia Beach, Case No.: CL13004546-00 (2016) forensic examination to determine unreported assets.
Port of Hampton Roads ILA Federal Credit Union, forensic examination to determine loss (2016)
Spruill v. Spruill Circuit Court for the City of Chesapeake, Case No.: CL15-1154 (2017), forensic examination to determine damages.
Stanford v. Stanford, Circuit Court for the City of Virginia Beach, Case No: CL18-505 (2018), forensic examination to determine damages.
Giaquinto v. Giaquinto Circuit Court for the City of Virginia Beach, Cas NO: CL18-004440 (2018), forensic examination to determine damages.
Indian Cove Resort Association, Inc., forensic accounting examination to determine loss. (2019).

Cases testifying as expert witness at a trial or deposition:

Donna Diane Collier and Donna Diane Collier Revocable Living Trust v. Eunice Collier, et al. Law NO. CL11-1222 (June 2012) Deposition as forensic accountant to determine damages.
Francis Sauve, et al. v. Daniel Powers, et al. Circuit Court for the City of Norfolk: Case No. CL13-6637, deposition as forensic accountant to determine damages.
Mary C. Durkin v. Edward G. Henifin, Circuit Court for the City of Virginia Beach, Case No.: CL08-6670 (2011) testified as expert witness at deposition to determine accounting matters.
Master Hwang's World Class Tae Kwon Do, Inc. v. Gerald T. Dixon, Jr., Inc. Circuit Court for the City of Chesapeake, (2014) Case No.: CL14-1484. Deposition to determine damages.

Summary of Qualifications

Commonwealth of Virginia v. Sheron A. Gibson, Sr. Circuit Court of the City of Suffolk, Case No.: SUF14-01004 (2015) Witness Subpoena, expert witness for the Commonwealth in forensic accounting, defendant pled guilty at trial.

Turbeville v. The Tile Shop, Inc., et al., Circuit Court for the City of Hampton, Case No.: CL16000450-00 (2016), testified as expert witness in forensic accounting.

Land v. Lang, Circuit Court for the City of Virginia Beach, Case NO: CL19-3784 (2019), Divorce, expert witness in forensic accounting and tax.

Abitbol v. Abitbol, Circuit Court for the City of Virginia Beach, Case No: CJ18-0236 (2019), Divorce, expert witness in forensic accounting and tax .

Neumaier-Farnsworth Enterprises, Inc. v. Eastern Commercial Brokers, Inc., Arbitration, Case No. 01-19-000301772 (2020) expert witness in forensic accounting and tax.